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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,281	10/22/2003	Jeffrey M. Stefan	GP-304072 (2760/142)	4899

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EXAMINER

GIBSON, ERIC M

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/691,281	<b>Applicant(s)</b> STEFAN ET AL.	
	<b>Examiner</b> Eric M. Gibson	<b>Art Unit</b> 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |




## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

- a. It does not identify the citizenship of each inventor.
- b. It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al. (US006127947A) in view of Kacel (US006687587B2).

a. Per claim 1, Uchida teaches a method of providing field service software updates to a mobile vehicle having a telematics device including initiating a vehicle field service software update (108, figure 3), sending and receiving field service software update data (109, figure 3) to a vehicle telematics device (column 19, lines 15-18, Uchida teaches wireless communication), and providing the field service software update data to at least one vehicle system from the vehicle telematics device wherein the at least one system is updated (110, figure 3; column 20, lines 1-25). Uchida does not teach that the field service software update data is selected from a group consisting of executable routines, update event triggers, and software module lists. However, general software updates are commonplace and well known to one of ordinary skill in the art. Application of the same principles found in the software art of using software update data that is selected from a group consisting of executable routines, update event triggers, and software module lists, can easily be modified to vehicle applications. Kacel is one such exemplary reference of this capability. Kacel teaches a method and system for managing vehicle control modules through telematics that includes software update data for vehicle modules that updates executable routines, update event triggers, and software module lists (see generally Kacel at column 9 – 10).

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Furthermore, Kacel provides the same motivation for the software update, namely to avoid having to remove or physically open parts of a vehicle by updating modules remotely, (see column 1) that prompted Uchida to provide for telematics service. It would have been obvious to one of ordinary skill in the art, at the time of invention, to update the system of Uchida with data that is selected from a group consisting of executable routines, update event triggers, and software module lists in order to remotely reprogram a vehicle computer module according to general software update principles, as is exemplified and taught by Kacel.

b. Per claim 2, Uchida teaches identifying a vehicle for updating (column 15, lines 51-58) and associating field service software update data with at least one system and providing the field service software update data to a telematics service center for delivery to the identified vehicle (column 19, lines 1-9).

c. Per claim 3, Uchida teaches providing a vehicle service update request responsive to detecting a field service software update trigger event (column 15, lines 26-27).

d. Per claim 4, Uchida teaches providing a vehicle service update request responsive to detecting a field service software update trigger event (column 18, lines 46-55).

e. Per claim 5, Uchida teaches storing the update data at the vehicle telematics device (110, figure 3).

f. Per claim 6, Uchida teaches detecting a field service software update trigger event at the telematics device (102, figure 3), accessing an update program

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module (104, figure 3), and invoking the update program module wherein the module applies the received field service update data to update the at least one vehicle system (110, figure 3; column 20, lines 1-25).

g. Per claim 7, Uchida teaches detecting a field service software update trigger event at the telematics device (102, figure 3), accessing the data (109, figure 3), and applying the service update data to update the at least one vehicle system (110, figure 3; column 20, lines 1-25).

h. Per claims 8 and 9, Uchida teaches that the system includes a processor for performing the updating (column 19, lines 41-42).

i. Per claim 10, Uchida teaches that the update data includes vehicle system parameters (column 20, lines 1-25).

j. Per claim 11, Uchida teaches a method, which can be executed using computer readable code (column 13, line 66 – column 14, line 2) of providing field service software updates to a mobile vehicle having a telematics device including initiating a vehicle field service software update (108, figure 3), sending and receiving field service software update data (109, figure 3) to a vehicle telematics device (column 19, lines 15-18, Uchida teaches wireless communication), and providing the field service software update data to at least one vehicle system from the vehicle telematics device wherein the at least one system is updated (110, figure 3; column 20, lines 1-25). Uchida does not teach that the field service software update data is selected from a group consisting of executable routines, update event triggers, and software module lists. However, general software updates are commonplace and well known to one of

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ordinary skill in the art. Application of the same principles found in the software art of using software update data that is selected from a group consisting of executable routines, update event triggers, and software module lists, can easily be modified to vehicle applications. Kacel is one such exemplary reference of this capability. Kacel teaches a method and system for managing vehicle control modules through telematics that includes software update data for vehicle modules that updates executable routines, update event triggers, and software module lists (see generally Kacel at column 9 – 10). Furthermore, Kacel provides the same motivation for the software update, namely to avoid having to remove or physically open parts of a vehicle by updating modules remotely, (see column 1) that prompted Uchida to provide for telematics service. It would have been obvious to one of ordinary skill in the art, at the time of invention, to update the system of Uchida with data that is selected from a group consisting of executable routines, update event triggers, and software module lists in order to remotely reprogram a vehicle computer module according to general software update principles, as is exemplified and taught by Kacel.

k. Per claim 12, Uchida teaches identifying a vehicle for updating (column 15, lines 51-58) and associating field service software update data with at least one system and providing the field service software update data to a telematics service center for delivery to the identified vehicle (column 19, lines 1-9).

l. Per claim 13, Uchida teaches detecting a field service software update trigger event at the telematics device (102, figure 3), accessing an update program module (104, figure 3), and invoking the update program module wherein the module

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applies the received field service update data to update the at least one vehicle system (110, figure 3; column 20, lines 1-25).

m. Per claim 14, Uchida teaches detecting a field service software update trigger event at the telematics device (102, figure 3), accessing the data (109, figure 3), and applying the service update data to update the at least one vehicle system (110, figure 3; column 20, lines 1-25).

n. Per claims 15 and 16, Uchida teaches that the system includes a processor for performing the updating (column 19, lines 41-42).

o. Per claim 17, Uchida teaches a system for providing field service software updates to a mobile vehicle having a telematics device including means for initiating a vehicle field service software update (108, figure 3), means for sending and receiving field service software update data (109, figure 3) to a vehicle telematics device (column 19, lines 15-18, Uchida teaches wireless communication), and means for providing the field service software update data to at least one vehicle system from the vehicle telematics device wherein the at least one system is updated (110, figure 3; column 20, lines 1-25). Uchida does not teach that the field service software update data is selected from a group consisting of executable routines, update event triggers, and software module lists. However, general software updates are commonplace and well known to one of ordinary skill in the art. Application of the same principles found in the software art of using software update data that is selected from a group consisting of executable routines, update event triggers, and software module lists, can easily be modified to vehicle applications. Kacel is one such exemplary reference of this capability. Kacel



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teaches a method and system for managing vehicle control modules through telematics that includes software update data for vehicle modules that updates executable routines, update event triggers, and software module lists (see generally Kacel at column 9 – 10). Furthermore, Kacel provides the same motivation for the software update, namely to avoid having to remove or physically open parts of a vehicle by updating modules remotely, (see column 1) that prompted Uchida to provide for telematics service. It would have been obvious to one of ordinary skill in the art, at the time of invention, to update the system of Uchida with data that is selected from a group consisting of executable routines, update event triggers, and software module lists in order to remotely reprogram a vehicle computer module according to general software update principles, as is exemplified and taught by Kacel.

p. Per claims 18 and 19, Uchida teaches that the field service software update data is vehicle system parameters (column 15, lines 30-35).

### ***Response to Arguments***

3. Applicant's arguments filed 6/10/2005 have been fully considered but they are not persuasive and are moot in view of the new ground(s) of rejection. Specifically, the newly added limitations have been found obvious as explained in the above rejections. No further arguments were made in the reply that would allow the Examiner to ascertain the differences between the Applicant's claimed invention and the prior art. The statement that "Uchida teaches away" from the newly added limitations is not supported with any reasoned explanation or evidence.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

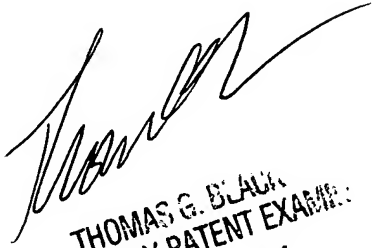
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Gibson whose telephone number is (571) 272-6960. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EMG

  
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